

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DR. SHIVA AYYADURAI,)	
Plaintiff,)	
)	
v.)	C.A. No. 1:20-11889-MLW
)	
WILLIAM FRANCIS GALVIN,)	
MICHELLE K. TASSINARI,)	
DEBRA O'MALLEY,)	
AMY COHEN,)	
NATIONAL ASSOCIATION OF STATE)	
ELECTION DIRECTORS,)	
all in their individual)	
capacities, and)	
WILLIAM FRANCIS GALVIN, in his)	
official capacity as the)	
Secretary of the Commonwealth)	
of Massachusetts,)	
Defendants.)	

MEMORANDUM AND ORDER

WOLF, D.J.

August 2, 2021

It is hereby ORDERED that:

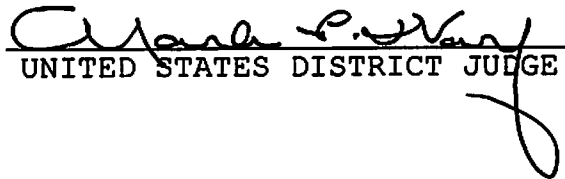
1. The court plans to decide the Motions to Dismiss (Docket Nos. 36, 44, 45) the First Amended Complaint (Docket No. 23) of the defendants sued in their individual capacities on the existing record. For reasons that will be subsequently explained, the court still expects to dismiss Counts 1 (Violation of Rights under Color of Law, 42 U.S.C. §1983), 2 (Conspiracy to Violate Civil Right, 42 U.S.C. §1985), 3 (RICO, 18 U.S.C. §1962(c)) and 4 (RICO Conspiracy, 18 U.S.C. §1962(d)) of the First Amended Complaint (Docket No. 23) on the basis of qualified immunity. In addition, the court still

expects to dismiss Count 5 (Intentional Infliction of Emotional Distress) for failure to state a plausible claim. If Counts 1-5 are dismissed, Count 7 (Declaratory Injunction) will also be dismissed.

2. Todd & Weld, Timothy Cornell, and plaintiff Shiva Ayyadurai shall provide forthwith each other, but not the defendants, the filings each made ex parte and under seal in response to the July 16, 2021 Order. See Dkt. Nos. 162, 163, 169. They shall also confer and be prepared to discuss at the August 4, 2021 hearing whether, if the court soon dismisses the claims against defendants in their individual capacities, plaintiff will subsequently be represented by Todd & Weld and/or Mr. Cornell, or proceed pro se.

3. The August 4, 2021, hearing will be held by videoconference and begin at 2:00 pm with an ex parte session, closed to the public, that includes only plaintiff, Todd & Weld, and Mr. Cornell. The ex parte session will be followed by a public session to address the issues raised by the July 16, 2021 Order (Docket No. 160), and Defendants' Motions to Strike or Seal (Docket Nos. 172, 175). Defendants shall also be prepared to discuss the amount of reasonable attorneys' fees associated with responding to the July 16, 2021 Order that they should be awarded if the court sanctions plaintiff for violating the June 16, 2021 Order (Docket No. 149). See Fed. R. Civ. P. 16(f)(2) and 37(b)(2)(C); see also

Washington v. Seattle Sch. Dist. No. 1, 458 U.S. 457, 487, n.31 (1982) (state-funded entities can be awarded attorneys' fees); Blum v. Stenson, 465 U.S. 886, 895, (1984) (attorneys' fees are "calculated according to the prevailing market rates in the relevant community regardless of whether [a party] is represented by private or nonprofit counsel"). As previously ordered, plaintiff shall be prepared to attend the August 4, 2021 hearing and be prepared to testify if necessary.


UNITED STATES DISTRICT JUDGE